THE HON'BLE MR JUSTICE ELIPE DHARMA RAO

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WRIT PETITION NO : 10616 of 2001

TUESDAY, THE EIGHTH DAY OF FEBRUARY
TWO THOUSAND AND FIVE

Between:

M/s. BABA Trade Fare , Rep. by its Managing Partner, K.Satya,
S/o. Venkateswara Rao, R/o. Keshava Rao,
High School, Grounds, Opp. Bus Stand, Bheemivaram, West Godavari District.

..... PETITIONER

AND

The Commissioner, Municipal Council of Beemavaram,
West Godavari District.

.....RESPONDENT

THE HON'BLE MR JUSTICE ELIPE DHARMA RAO

WRIT PETITION NO : 10616 of 2001

O R D E R:

This writ petition is filed under Article 226 of the Constitution of India seeking a Mandamus declaring the action of the respondent-Corporation in issuing the demand notice dated 16-05-2001, directing the petitioner to pay Rs.14,135/- towards sheds construction and advertisement fee as illegal and arbitrary.

The petitioner herein is the Managing Partner of "BABA Trade Fare" and conducting trade fare in various places. It is the case of the petitioner that while he was conducting trade fare in Bheemavaram town in the year 1998, at the influence of the Chairman of the Bheemavaram Municipality, the Commissioner of Municipality got issued the impugned notice demanding him to pay Rs.14,135/- towards publicity tax and shares permission within two days therefrom. But the petitioner got permission to run the trade fair from 23-4-2001 to 11-6-2001, by the respondent-Scorporation vide Roc.No.1571/2001/F2. In view of the same, he paid Rs.1,652/- to the respondent-Corporation towards fee for temporary sheds and publicity in the year 1998. The grievance of the petitioner is that the respondent-Corporation without giving any particulars regarding the fixing of fee for the temporary sheds and publicity, issued

the impugned notice, which is illegal and arbitrary.

To substantiate their contention, the respondent-Corporation did not file the Counter affidavit.

Considering the facts and circumstances of the case, admittedly, the impugned notice, which is of the year 2001, did not contain the particulars regarding the payment of tax. The grievance of the petitioner is that though he got necessary permission from the corporation in the year 1998 and paid the fee as required, the respondent-corporation without giving particulars regarding the fixing of fee for the temporary sheds and publicity etc., issued the impugned notice.

Having regard to the fact that the impugned notice did not have the fee particulars to be paid by the petitioner and in view of the fact that the respondent-corporation did not chose file any counter, I am of the considered view that the impugned notice is liable to be set aside and is accordingly set aside. However, this order does not preclude the respondent-corporation to issue a fresh demand notice narrating the fact that how the Corporation arrived at for the said amount and pass appropriate orders in accordance with law after giving opportunity to the petitioner.

Accordingly, the writ petition is allowed. No costs.

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02-08-2005

MjI/*